

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1617 OF 2004
IN
FIRST APPEAL NO.589 OF 2004**

The District Health Officer,
Zilla Parishad, Nagala Park
Kolhapur

...Applicant

vs.

1.Smt.Malan Sopana
2.Kumar Dhanaji Sopana
3.Kumar Sachin Sopan
4.Smt.Sakhubai Namdev Bhaste
5.Deputy Director of Health Service
(Transport), Kolhapur
6.Madhukar Mahadev Sutar

...Respondents

Mr.S.R.Nargolkar for the Applicant.
Mr.B.A.Jagoje for Respondent Nos.1 to 4.

**CORAM: A.S.OKA, J.
DATE : FEBRUARY 20, 2007.**

P.C.:

1. Heard Advocates for the parties. The Applicant has deposited a sum of Rs.4,76,956/- with the Tribunal. The said amount represents the entire amount due and payable as per the impugned Judgment and Award.

2. Considering the issues raised in the Appeal as regards negligence and quantum, Application is disposed of by passing the following order :

i) There will be interim relief in terms of prayer clause (a).

ii) The first Respondent has already been permitted to withdraw a total sum of Rs.1,00,000/- without security. If

the said amount is not withdrawn till today, the first Respondent will be entitled to do so.

iii) The fourth Respondent will be entitled to withdraw a sum of Rs.75,000/- without any security.

iv) In addition to above amounts, the first Respondent will be entitled to withdraw further amount of Rs.75,000/- on furnishing adequate security.

v) The Tribunal will invest the rest of the amount in fixed deposit in any nationalised bank initially for a period of three years and thereafter the fixed deposit shall be renewed on yearly basis till the final disposal of the Appeal.

vi) The first Respondent will be entitled to withdraw total one half of the amount of interest accrued on the fixed deposit on behalf of the second and third Respondents till the said Respondents attain majority. After they attain majority, both the Respondents will be entitled to withdraw their respective share of one fourth of the amount of interest accrued on the fixed deposit.

vii) It is made clear that withdrawal of the amounts as aforesaid by the concerned Respondents will be subject to final outcome of the Appeal. No order as to costs.

JUDGE